IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR.

O R D E R

Bhagwati Lal. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.1444/2006
against the order dated 5-10-2006 passed
by the Additional Sessions Judge No.2,
Chittorgarh, in Criminal Revision No.33/2006.
...

Date of Order: November 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Umesh Shrimali, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

Notice for final disposal is accepted by the learned Public Prosecutor. With the consent of the learned counsel for the parties, the petition is being heard and decided at the admission stage.

The order dated 5-10-2006 passed by the Additional Sessions Judge No.2, Chittorgarh (for short, "the Revisional Court" hereinafter) has been impugned by the petitioner by way of filing the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the

Code" hereinafter), whereby the revision petition filed by the petitioner against the order dated 13-7-2006 passed by the Additional Chief Judicial Magistrate, Kapasan, district Chittorgarh (for short, "the trial Court" hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

It is contended by the learned counsel for the petitioner that a Mahendra Pick-up Jeep was seized by the police for the offences under Sections 41 and 42 of the Forest Act while it was carrying wood, which according to the learned counsel for the petitioner was the fire-wood. The petitioner moved an application under Section 457 of the Code seeking interim custody of the vehicle on Supurdginana during pendency of the case. The trial Court dismissed the application and declined to release the vehicle on Supurdginama. However, on revision, the Revisional Court allowed the revision petition and directed to release the said vehicle on Supurdginama provided the petitioner furnishes the bank guarantee of Rs. 3 lac. Apart from the bank guarantee, certain other conditions were also imposed by the Revisional Court.

It is contended by the learned counsel for the petitioner that it is yet to be established by the prosecution that the wood alleged to have been transported in the said jeep was

the forest produce. According to the learned counsel, the petitioner has prima facie established by documentary evidence that it is the fire-wood and not the forest produce. It is further submitted that the condition of furnishing the bank guarantee of Rs.3 lac is onerous; the petitioner purchased the vehicle on finance and it is not possible for him to furnish the bank guarantee for Rs. 3 lac.

Having regard to the facts and circumstances of the case and in view of the contention raised by the learned counsel for the petitioner, it is yet to be established that the wood which was being carried in the jeep, was the forest produce or fire-wood, in my view, the direction to furnish the bank guarantee of Rs. 3 lac is onerous and the same deserves to be modified by reducing the amount from Rs.3 lac to Rs.50,000/- for a period of one year and for remaining amount, furnishing solvent security will meet the ends of justice.

In this view of the matter, the impugned order dated 5-10-2006 passed by the Revisional Court is modified to the extent that instead of furnishing the bank guarantee of Rs.3 lac, the petitioner to furnish the bank guarantee of Rs.50,000/- for one year and for the remaining amount of Rs. 2,50,000/-, he shall furnish a solvent security before the trial Court with the other usual conditions imposed by the trial Court. The trial Court is directed to decide the criminal case expeditiously, preferably

within one year.

With these observations, the criminal miscellaneous petition stands disposed of.

(H.R. PANWAR), J.

mcs